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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/742,796	12/20/2000	Robert H. Montgomery JR.	K-1744	8446

7590 01/15/2004

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EXAMINER

KRECK, JOHN J

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 01/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/742,196

Applicant(s)

ALEXANDER, JAY A.

Examiner

John Kreck

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-11, 13 and 15-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 5-11, 13 and 15-22 is/are allowed.
- 6) ☒ Claim(s) 23-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

The amendment dated 11/12/03 has been entered.

Claims 1-3,5-11,13,15-28 are pending.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sterwerf in view of Bitelli (U.S. Patent number 6,086,160).

Sterwerf shows a wear sleeve (2) comprising an external portion and a portion that is adapted to be received in a bit holder; the portion that is adapted to be received including a rearward disc end portion (22), an annular groove portion (31) adapted to receive a generally cylindrical retainer and a forward tapered portion; wherein the sleeve has a shoulder (14). Sterwerf fails to show the rounded undercut portion.

Bitelli shows a similar sleeve which includes a shoulder and rounded undercut portion which weakens and fails first, which prevents the sleeve from breaking in the bore.

It would have been further obvious to one of ordinary skill in the art at the time of the invention to have further modified the Sterwerf sleeve to have a shoulder and

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rounded undercut portion which weakens and fails first, as called for in claim 23, in order to prevent the sleeve from breaking in the bore.

2. Claims 24, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sterwerf, Jr. (U.S. Patent number 5,370,448). In view of deMey III (U.S. Patent number 4,582,364).

Sterwerf shows a wear sleeve including an a forward tapered portion; and a shoulder (near 14); wherein the tapered portion is between the groove and the shoulder and the tapered portion is spaced form the shoulder (by cylindrical portion 21). The groove of the Sterwerf sleeve is not adapted to receive a sleeve retainer, but is adapted to receive a metal ring.

DeMey shows a similar device which includes a groove (33) adapted to receive a sleeve retainer. The sleeve retainer is advantageous over metal rings because it can be more easily removed.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Sterwerf sleeve to have a groove adapted to receive a sleeve retainer as called for in claim 24, so that it can be equipped with a sleeve such as taught by deMey, in order to facilitate removal.

With regards to claim 26, deMey teaches the retainer.

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Claims 25, 27, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sterwerf in view of deMey as applied to claim 24, and further in view of Bitelli (U.S. Patent number 6,086,160).

With regards to claim 25; Sterwerf fails to show the rounded undercut portion.

Bitelli shows a similar sleeve which includes a shoulder and rounded undercut portion which weakens and fails first, which prevents the sleeve from breaking in the bore.

It would have been further obvious to one of ordinary skill in the art at the time of the invention to have further modified the Sterwerf sleeve to have a shoulder and rounded undercut portion which weakens and fails first, as called for in claim 25, in order to prevent the sleeve from breaking in the bore.

With regards to claim 27; deMey shows the retainer.

With regards to claim 28; deMey shows the retainer positioned around the groove.

Claims 1-3,5-8,10,11,13,15,16, and 18-22 are allowed.

### ***Response to Arguments***

It is noted that applicant made no arguments concerning the rejection of claim

23.

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Applicant's arguments with respect to claims 24-28 have been considered but are moot in view of the new ground(s) of rejection.

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kreck whose telephone number is (703)308-2725. The examiner can normally be reached on M-F 5:30 am - 2:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703)308-2978. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9326.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)306-4177.

A handwritten signature in black ink, appearing to read 'John Kreck', is written over the printed name.

John Kreck  
Examiner  
Art Unit 3673

JJK